

# HOUSE BILL REPORT

## HB 2652

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### As Reported By House Committee On:

Corrections

**Title:** An act relating to the costs of hospitalizing criminally insane patients.

**Brief Description:** Clarifying existing law on the costs of hospitalizing criminally insane patients.

**Sponsors:** Representatives Ballasiotes, Costa and Scott.

### Brief History:

#### Committee Activity:

Corrections: 1/24/96, 1/26/96 [DP].

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### HOUSE COMMITTEE ON CORRECTIONS

**Majority Report:** Do pass. Signed by 10 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; Schoesler and D. Sommers.

**Staff:** Rick Neidhardt (786-7841).

**Background:** Victims of the Criminally Insane. A court may sometimes order persons found not guilty by reason of insanity to pay restitution or damages to the victims they have harmed.

Hospitalization Costs for the Criminally Insane. Defendants who are found not guilty by reason of insanity are hospitalized at a state mental hospital if they are found to be a substantial danger to other persons or to present a substantial likelihood of committing certain felonies.

The state hospitals housing these criminally insane persons are operated by the Department of Social and Health Services (DSHS). Criminally insane persons housed in state hospitals are responsible for reimbursing DSHS for its hospitalization costs.

DSHS investigates the financial condition of a criminally insane person and makes determinations regarding the person's ability to pay all or a portion of the hospitalization costs. DSHS is authorized to develop general standards to guide its

determination of ability to pay in individual cases. The general standards are to be recomputed periodically to take into account changes in the cost of living and other pertinent factors. The standards are to include provisions addressing unusual and exceptional circumstances. Washington's statutes do not specify what items are to be included in these "pertinent factors" or "unusual and exceptional circumstances."

Once DSHS finds that a particular criminally insane person has an ability to pay, DSHS serves the finding on the person. The person has an opportunity to contest the finding before an administrative law judge.

After the finding become final, DSHS may apply to a Superior Court to have a judgment entered against the person for the amounts identified in the finding. DSHS can then collect on the judgment through enforcement procedures existing for civil judgments, including the filing of liens.

**Summary of Bill:** The language directing DSHS to take into account "pertinent factors" and "unusual and exceptional circumstances" when setting its reimbursement standards is clarified. These factors and circumstances are to take into account judgments owed by the criminally insane person to any victim of an act that would have resulted in a criminal conviction but for the finding of criminal insanity.

When DSHS obtains a Superior Court judgment against a criminally insane person for payment of hospitalization expenses, DSHS may not collect on the judgment until the victims have been fully compensated under their judgment against the criminally insane person.

**Appropriation:** None.

**Fiscal Note:** Requested on January 18, 1996.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Victims with a civil judgment against a criminally insane person should not have to fight DSHS over the criminally insane person's assets. Victims should not be victimized again. Victim compensation should be given a higher priority than DSHS reimbursement. In the related context of inmates being housed in the state criminal system, statutes already exist that give victim restitution higher priority than the correctional agency's claim for reimbursement for incarceration costs. Victims are hurt by the current law. The DSHS does not want to fight with victims over priority of claims and wants a clear legislative statement of what these priorities should be.

**Testimony Against:** None.

**Testified:** Franklin Shoichet, attorney for victims (pro); Mildred Bond, victim (pro); and Dave Henry, DSHS (pro).